

**STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF LABOR**  
**CONCORD, NEW HAMPSHIRE**



V

**Conway Office Products LLC**

**DECISION OF THE HEARING OFFICER**

**Nature of Dispute:** RSA 275:43 I unpaid wages  
RSA 275:43 V unpaid employee expenses

**Employer:** Conway Office Products LLC, 10 Capitol St, Nashua NH 03063

**Date of Hearing:** November 30, 2015

**Case No.:** 51438

**BACKGROUND AND STATEMENT OF THE ISSUES**

The claimant asserts he is owed \$470.04 in unpaid employee expenses for April and May 2013.

The employer denies the claimant was is due any payment of employee expenses as he did not submit the request for reimbursement of employee expenses within the ninety-day deadline.

**FINDINGS OF FACT**

The employer terminated the claimant's employment on September 3, 2013.

The employer agrees that the employee expense policy was not reduced to writing, but in practice they did not pay expenses if they were not submitted within the ninety day timeframe.

RSA 275:49 III requires that the employer make available to employees in writing, or through a posted notice maintained in an accessible place, employment practices and policies regarding the payment of employee expenses. Lab 803.03 (b) requires employers to provide his/her employees with a written or posted detailed description of employment practices and policies as they pertain to paid vacations, holidays, sick leave, bonuses, severance pay, personal days, payment of the employees expenses, pension and all other fringe benefits per RSA 275: 49. Lab 803.03 (f) (6) requires an employer maintain on file a signed copy of the notification.

The employer's expense reimbursement policy states, "1. Expenses such as gas and tolls are reimbursed on a monthly basis. Other expenditures are subject to prior approval by department manager...."

The policy does not indicate that there is a timeframe in which an employee must submit the request for reimbursement.

The employer agrees the claimant often did not submit the request for reimbursement within ninety days, however, he always received the reimbursement.

RSA 275:57 Reimbursement of Employee Expenses. –

I. An employee who incurs expenses in connection with his or her employment and at the request of the employer, except those expenses normally borne by the employee as a precondition of employment, which are not paid for by wages, cash advance, or other means from the employer, shall be reimbursed for the payment of the expenses within 30 days of the presentation by the employee of proof of payment.

The Hearing Officer finds the claimant proved by a preponderance of the evidence he is due the claimed employee expenses under the written policy of the employer, in the amount of \$470.04.

### **DISCUSSION**

The claimant has the burden of proof in these matters to provide proof by a preponderance of evidence that his assertions are true.

Pursuant to Lab 202.05 “Proof by a preponderance of evidence” means a demonstration by admissible evidence that a fact or legal conclusion is more probable than not.

The Hearing Officer finds the claimant met his burden in this claim.

### **DECISION AND ORDER**

Based on the testimony and evidence presented, as RSA 275:43 I requires that an employer pay all wages due an employee, and as RSA 275:43 V considers the payment of employee expenses to be wages, when due, if a matter of employment practice or policy, or both, and as this Department finds that the claimant proved by a preponderance of the evidence that he was not paid all employee expenses due, it is hereby ruled that this Wage Claim is valid in the amount of \$470.04.

The employer is hereby ordered to send a check to this Department, payable to [REDACTED], in the total of \$470.04, less any applicable taxes, within 20 days of the date of this Order.

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Melissa J. Delorey  
Hearing Officer

Date of Decision: December 1, 2015

cc: Conway Office Products LLC, 10 Capitol St, Nashua NH 03063

MJD/mjd